



October 25, 2001

Ms. Melissa L. Barloco
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR2001-4867

Dear Ms. Barloco:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 153898.

The Harris County Constable of Precinct Four (the "constable") received a written request for a particular offense report involving the death of a child. You state that the "front page" information and the "call slip" were provided to the requestor. You contend, however, that the remaining requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.

You contend that the information at issue is made confidential under section 58.007(c) of the Family Code and thus must be withheld from the public pursuant to section 552.101 of the Government Code.¹ This office has previously addressed the issue raised by your request. In Open Records Decision No. 628 (1994), this office discussed the applicability of the statutory predecessor to section 58.007(c) of the Family Code to records involving child crime victims:

This section applies only to juvenile offenders and not to juvenile crime victims. Section 51.14 [of the Family Code] provides, *inter alia*, that where a particular matter is within the jurisdiction of a juvenile court, the juvenile offender's records shall be confidential. [Citation omitted.] These provisions have no bearing on records relating to juvenile crime victims; they clearly apply only to records concerning juvenile offenders. Although the provisions

¹Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

express concern for the privacy of juvenile offenders, juvenile crime victims have thus far received no similar explicit statutory protection.

Open Records Decision No. 628 at 6 (1994). Because the records at issue here pertain to a juvenile crime victim, and not to a juvenile offender, section 58.007 of the Family Code does not apply to these records.

We conclude, however, that these records are made confidential under section 261.201 of the Family Code. Section 261.201(a) of the Family Code provides as follows:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

After reviewing the information at issue, we conclude that the requested offense report comes within the scope of section 261.201 of the Family Code. You have not indicated that the constable has adopted a rule that governs the release of this type of information. Therefore, we assume that no such regulation exists. Given that assumption, the requested information must be withheld in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.² See Open Records Decision No. 440 at 2 (1986) (predecessor statute). *But see* Fam. Code § 261.201(b) (provision for court ordered access), (f) (limited right of access to records held by Department of Protective and Regulatory Services).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the

²Because we resolve your request under section 261.201 of the Family Code, we do not address the applicability of section 552.108 of the Government Code.

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

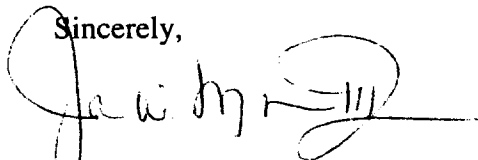
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/RWP/seg

Ref: ID# 153898

Enc. Submitted documents

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(w/o enclosures)